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8
 9 **UNITED STATES DISTRICT COURT**
 10
 11 **NORTHERN DISTRICT OF CALIFORNIA**

11 JAVIER RAMIREZ, as an individual and on
 12 behalf of all employees similarly situated,

13 Plaintiff,

14 v.

15 JONES LANG LASALLE AMERICAS,
 16 INC., an Illinois Corporation; and DOES 1
 17 through 50, inclusive,

18 Defendants.

Case No.

**DEFENDANT'S NOTICE OF REMOVAL
 OF CIVIL ACTION TO UNITED STATES
 DISTRICT COURT**

[28 U.S.C. § 1332(d) (Class Action Fairness
 Act)]

[Filed concurrently with Civil Cover Sheet;
 Notice of Interested Parties; and Declarations of
 Nandini Amin and Marlene Moffitt]

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 20 Complaint Filed: May 3, 2023
 21 Removal Date: June 8, 2023

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Case No.

DEFENDANT'S NOTICE OF REMOVAL OF CIVIL ACTION TO UNITED STATES DISTRICT COURT

1 Defendant JONES LANG LASALLE AMERICAS, INC. (“Defendant” or “JLL”) removes
 2 this action to the United States District Court for the Northern District of California under 28 U.S.C.
 3 § 1332(d) (the Class Action Fairness Act [“CAFA”]) and § 1446 because (1) Plaintiff and other
 4 members of the putative class are citizens of a State different from any defendants; (2) the number
 5 of members of all proposed plaintiff classes in the aggregate is over 100; and (3) the matter in
 6 controversy exceeds the sum or value of \$5,000,000, exclusive of interest and costs. All CAFA
 7 requirements are satisfied here.

8 **I. STATE COURT ACTION**

9 1. Plaintiff Javier Ramirez (“Plaintiff”) filed a Class Action Complaint (“Complaint”)
 10 on May 3, 2023 in San Francisco County Superior Court (“Action”), Case No. CGC-23-606331.
 11 (Moffitt Decl., ¶ 2.) A copy of the Complaint is attached as **Exhibit 1**.

12 2. JLL was served with the Complaint on May 10, 2023. (Moffitt Decl., ¶ 3.) A copy of
 13 the Summons is attached as **Exhibit 2**.

14 3. JLL filed an Answer to the Complaint on June 7, 2023 (Moffitt Decl., ¶ 4.) A copy of
 15 the Answer is attached as **Exhibit 3**.

16 **II. REMOVAL IS TIMELY**

17 4. The Notice of Removal was filed within 30 days of service of the Complaint.
 18 Therefore, the Notice of Removal is timely. See 28 U.S.C. § 1446.

19 **III. REMOVAL IS PROPER UNDER CAFA**

20 5. Removal is proper given Plaintiff’s allegations and claims. The Complaint asserts
 21 these claims on a class basis: (1) unpaid wages, including unpaid overtime; (2) unpaid meal period
 22 premiums; (3) unpaid rest period premiums; (4) final wages not paid timely; (5) non-compliant wage
 23 statements; (6) unreimbursed business expenses; and (7) violation of Business and Professions Code
 24 §§ 17200 et seq., among other claims. (Ex. 1 [Complaint].)

25 6. CAFA grants district courts original jurisdiction over civil class action lawsuits filed
 26 under federal or state law in which any member of a class of plaintiffs is a citizen of a state different
 27 from any defendant; the number of members of the proposed class is over 100 in the aggregate; and
 28

1 where the matter in controversy exceeds the sum or value of \$5 million, exclusive of interests and
 2 costs. 28 U.S.C. § 1332(d). CAFA authorizes removal of such actions under 28 U.S.C. § 1446.

3 7. This Court has jurisdiction over the Action under CAFA because it is a civil case filed
 4 as a class action wherein at least one member of the putative class of plaintiffs is a citizen of a state
 5 different from at least one defendant; the number of potential class members is over 100; and the
 6 matter in controversy exceeds \$5 million, exclusive of interest and costs.

7 **A. CAFA's Diversity of Citizenship Requirement Is Satisfied**

8 8. CAFA's diversity requirement is satisfied "so long as 'any member of a class of
 9 plaintiffs is a citizen of a state different from any defendant.'" *Bradford v. Bank of Am. Corp.*, No.
 10 CV 15-5201-GHK (JCX), 2015 WL 5311089, at *3 (C.D. Cal. Sept. 10, 2015); citing, *California v.*
 11 *InelliGender, LLC*, 771 F.3d 1169, 1172 (9th Cir. 2014); 28 U.S.C. §§ 1332(d)(2), 1332(d)(5)(B),
 12 1453(a), (b).

13 9. Citizenship of Plaintiff and putative class members. At all relevant times, Plaintiff
 14 was a citizen of California. (Ex. 1 [Complaint], ¶ 9.) Members of the proposed class, who by
 15 definition are or were employed in California, are presumed to be primarily citizens of the State of
 16 California. *See, e.g., Lew v Moss*, 797 F.2d 747, 750 (9th Cir. 1986) ("place of employment" is an
 17 important factor weighing in favor of citizenship).

18 10. Citizenship of Defendant. Under 28 U.S.C. § 1332(c), "a corporation shall be deemed
 19 to be a citizen of every State and foreign state by which it has been incorporated and of the State or
 20 foreign state where it has its principal place of business." 28 U.S.C. § 1332(c)(1). The Supreme Court
 21 established the proper test for determining a corporation's principal place of business for diversity
 22 jurisdiction. *Hertz Corp. v. Friend*, 130 S. Ct. 1181 (2010). The "'principal place of business' is best
 23 read as referring to the place where a corporation's officers direct, control, and coordinate the
 24 corporation's activities." *Id.* at p. 1184. It is the place where the corporation "maintains its
 25 headquarters – provided that the headquarters is the actual center of direction, control and
 26 coordination." *Id.*

27 11. At all relevant times, JLL has been a business entity organized under the laws of the
 28 State of Maryland with its principal place of business in Illinois. JLL's principal address, along with

1 its CEO, Secretary, and CFO are located in Chicago, Illinois. JLL is headquartered in Illinois and its
 2 core executive and administrative functions occur there. (Amin Decl., ¶ 2.)

3 12. Accordingly, JLL is a resident of Maryland and Illinois. The minimal diversity of
 4 citizenship requirements under 28 U.S.C. § 1332(d)(2) are met.

5 **B. CAFA's Class Size Requirement Is Satisfied**

6 13. Plaintiff defines the Class Period as the period “within four (4) years of filing of this
 7 Complaint to the present” for most of his claims. (Ex. 1 [Complaint], ¶¶ 52(a), (b), (c), and (d).)

8 14. From May 3, 2019 through the date of this Notice of Removal, JLL employed more
 9 than 100 putative class members. (Amin Decl., ¶ 4.)¹

10 **C. CAFA's Amount in Controversy Requirement Is Satisfied**

11 15. CAFA authorizes the removal of class action cases in which the amount in
 12 controversy for all class members exceeds \$5 million. 28 U.S.C. § 1332(d).

13 16. The “District Court [must] determine whether it has jurisdiction by adding up the
 14 value of the claim of each person who falls within the definition of [a plaintiff’s] proposed class and
 15 determine whether the resulting sum exceeds [\$5 million].” *Standard Fire Insurance Co. v. Knowles*,
 16 133 S.Ct. 1345, 1348 (2013). For removal, “[t]he court accepts the allegations in the complaint as
 17 true and assumes the jury will return a verdict in the plaintiff’s favor on every claim.” *Henry v. Cent.*
 18 *Freight Lines, Inc.*, 692 F. App’x 806s, 807 (9th Cir. 2017) (citing *Campbell v. Vitran Express, Inc.*,
 19 471 F. App’x. 646, 648 (9th Cir. 2012)).

20 **1. Alleged Unpaid Wages, Including Unpaid Overtime**

21 17. In support of his first cause of action, Plaintiff alleges he and the putative class
 22 members were required to “take a COVID test once per week prior to arriving to Defendant’s
 23 facilities off-the-clock but failed to compensate for that time.” And, he and the putative class
 24 members were required “to perform work ‘off-the-clock’” and “work beyond the scheduled eight
 25 hours to check and respond to work related emails. However, Plaintiff’s manager specifically
 26 instructed to make sure it does not create any overtime work so that Defendant avoids paying
 27

28 ¹ JLL in no way concedes Plaintiff’s allegations in the Complaint are accurate.

1 overtime.” (Ex. 1, [Complaint], at ¶ 37.) Plaintiff alleges he and the putative class members were
 2 required to work overtime “in excess of eight (8) hours per workday and in excess of forty (40) hours
 3 per workweek but were not paid at the proper overtime rate of pay.” (Ex. 1, [Complaint], ¶¶ 38, 64.)

4 18. Labor Code section 1194(a) provides:

5 “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than
 6 the legal minimum wage or the legal overtime compensation applicable to the employee is
 7 entitled to recover in a civil action the unpaid balance of the full amount of this minimum
 8 wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and
 9 costs of suit.”

10 19. JLL denies Plaintiff or the putative class members were not paid all overtime wages
 11 earned.² However, because Plaintiff has alleged he and other class members worked more than eight
 12 hours in a day and more than 40 hours in a week, at a minimum, the court should apply to the amount
 13 in controversy requirement a conservative assumption of 1 hour of unpaid overtime wages each
 14 workweek that the putative class members worked in California.

15 20. Based on JLL’s records, the number of putative class members from four years prior
 16 to the filing of the Complaint to the date of this Notice is at least 1,685. Those employees worked a
 17 total of approximately 158,138 weeks and had an average hourly rate of pay of \$35.90. (Amin Decl.,
 18 ¶ 4.)

19 21. JLL’s calculation of Plaintiff’s claims for unpaid time-and-a-half overtime wages is
 20 **\$4,257,865.65** ($[\$35.90 \text{ per hour} \times 1.5 \text{ overtime premium} \times .5 \text{ hours}] * 158,138 \text{ workweeks}$). The
 21 computation of the amount in controversy is based on corporate business records that show the 1,685
 22 putative class members worked 158,138 weeks since May 3, 2019, with an average regular rate of
 23 \$35.90 per hour, and the assumption that each putative class member incurred 30 minutes (.5 hours)
 24 of unpaid overtime every workweek. (*Id.*)

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² In alleging the amount in controversy in this Notice, JLL does not concede in any way Plaintiff’s allegations are accurate, or that Plaintiff or the putative class members are entitled to any monetary relief. JLL does not concede any putative class members are appropriately included in the Action.

1 22. An assumption of one hour of unpaid overtime for every workweek has been accepted
 2 by the federal courts as a reasonable and conservative figure. *See Jasso v. Money Mart Express, Inc.*,
 3 No. 11-CV-5500 YGR, 2012 WL 699465, at *56 (N. D. Cal. Mar. 1, 2012) (holding that calculating
 4 at least one violation per week was a “sensible reading of the alleged amount in controversy”); *Ray*
 5 *v. Wells Fargo Bank, N.A.*, No. CV 11-01477 AHM (JCx), 2011 WL 1790123, at *6-7 (C.D. Cal.
 6 May 9, 2011). This is especially the case where, as here, the plaintiff fails to provide specific
 7 allegations concerning the frequency of which he worked overtime without being provided the
 8 requisite compensation. *See Byrd v. Masonite Corp.*, No. EDCV 16-35 JGB (KKX), 2016 WL
 9 2593912, at *5 (C.D. Cal. May 5, 2016).

10 23. Plaintiff include additional claims such as alleged minimum wage violations and
 11 untimely wages during employment. (Ex. 1 [Complaint], ¶ 61 and Ex. A.) Even excluding those
 12 claims, however, Plaintiff’s allegations easily satisfy the threshold for purposes of removal under
 13 CAFA, as further set forth below. Even the most conservative of estimated recoveries for Plaintiff’s
 14 additional wage claims pushes the amount in controversy even further over the threshold.

15 **2. Alleged Meal Break Violations**

16 24. In support of his second cause of action, Plaintiff alleges he and the putative class
 17 members “would often times miss their meal periods, have interrupted or short meal periods.” (Ex.
 18 1. [Complaint], at ¶ 39.) For this, Plaintiff seeks to recover on behalf of himself and other putative
 19 class members “one (1) hour of pay at the employee’s regular rate of compensation for each workday
 20 that the meal period is not provided.” (Ex. 1 [Complaint], ¶¶ 72, 77.)

21 25. JLL’s calculation of Plaintiff’s claim for meal period violations is **\$5,677,154.20**
 22 (\$35.90 avg hourly rate x 1 break premium per week x 158,138 weeks). This computation is based on
 23 corporate business records that show putative class members have worked 158,138 weeks since May
 24 3, 2019 and at an average regular rate of \$35.90 per hour, and the assumption that each putative class
 25 member incurred one meal period violation for every workweek. (Amin Decl., ¶ 4.)

26 26. When determining the amount placed in controversy by a plaintiff’s allegations
 27 regarding a common practice of meal period violations like those alleged by Plaintiffs in the Complaint,
 28 an estimate of one meal period violation for every week of work is both reasonable and conservative.

1 Ex. 1 [Complaint], ¶¶ 39, 72, 77; *See, e.g., Campbell v. Vitran Exp., Inc.*, 471 Fed. Appx. 646, 649 (9th
 2 Cir. 2012); *Mackall v. Healthsource Glob. Staffing, Inc.*, No. 16-CV-03810-WHO, 2016 WL 4579099,
 3 at *5 (N.D. Cal. Sept. 2, 2016) (acknowledging that multiple decisions from the Northern District of
 4 California have recognized assumptions of one missed meal period per week as “reasonable in light of
 5 policy and practice allegations and allegations that defendants’ ‘regularly’ denied class member
 6 breaks.”); *Unutoa v. Interstate Hotels & Resorts, Inc.*, No. 2:14-CV-09809-SVW-PJ, 2015 WL
 7 898512, at *3 (C.D. Cal. Mar. 3, 2015) (approving of defendant’s assumption that class members
 8 missed one required meal period per week).

9 **3. Alleged Rest Break Violations**

10 27. In support of his third cause of action, Plaintiff alleges “Defendant did not allow
 11 Plaintiff and Class Members to leave the work premises for rest periods. Accordingly, JLL’s policy
 12 and practice was for Plaintiff and Class Members to work through rest periods and to not authorize or
 13 permit them to take any rest periods.” (Ex. 1 [Complaint], at ¶ 40.) For this, Plaintiff seeks to recover
 14 on behalf of himself and other putative class members “one (1) hour of pay at the employee’s regular
 15 rate of compensation for each work day that the rest period is not provided.” Ex. 1 [Complaint], ¶¶
 16 80—85.)

17 28. JLL’s calculation of Plaintiff’s claim for rest break violations is **\$5,677,154.20** (\$35.90
 18 avg hourly rate x 1 break premium per week x 158,138 weeks). This computation is based on corporate
 19 business records that show putative class members have worked 158,138 weeks since May 3, 2019 and
 20 at an average regular rate of \$35.90 per hour, and the assumption that each putative class member
 21 incurred one rest period violation for every workweek. (Amin Decl., ¶ 4.)

22 **4. Wage Statement Penalties**

23 29. Plaintiff also seek penalties for allegedly inaccurate wage statements under California
 24 Labor Code § 226 on behalf of themselves and the putative class. (Ex. 1 [Complaint], at ¶¶ 91.)
 25 Plaintiff alleges his wage statements were deficient because they failed to include “all applicable
 26 hourly rates . . . the correct overtime hours worked, correct wages for meal periods. . . [and] the
 27 correct wages for rest periods” among other things. (*Id.*, at ¶ 49.)

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30. Labor Code section 226 carries a one-year statute of limitations, making the liability period here span from May 3, 2022 to present (i.e., one year prior to the filing of the Complaint). Cal. Code Civ. Proc. § 340(a); *Falk v. Children's Hospital Los Angeles*, 237 Cal.App.4th 1454, 1469 (2015).

31. From May 3, 2022 to present, JLL employed at least 1,669 putative class members who worked approximately 36,189 pay periods and presumably received a wage statement each pay period. (Amin Decl., ¶ 5.)

32. Therefore, based on Plaintiff's allegations, the amount in controversy for this claim is **\$3,535,450** ($1,669 * \$50 = \$83,450$) + ($654 * \$100 = \$65,400$).

5. Waiting Time Penalties

33. Plaintiff seeks waiting time penalties under California Labor Code § 203 on behalf of himself and other class members who are no longer employed by JLL. (Ex. 1 [Complaint], ¶¶ 48, 97—99.)

34. California Labor Code § 203 provides that “[i]f an employer willfully fails to pay... any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.”

35. A three-year statutory period applies to Plaintiff's claim for waiting time penalties. *Pineda v. Bank of America, N.A.*, 50 Cal. 4th 1389, 1398 (2010).

36. From May 3, 2020 through the date of this Notice, at least 505 putative class members terminated their employment with JLL. (Amin Decl., ¶ 6.) Thus, the amount in controversy for waiting time penalties is at least **\$4,351,080** (\$35.90 average hourly rate x 8 hours x 30 days x 505 putative class members).

6. Attorney's Fees

37. Based on the above claims, JLL has demonstrated at least **\$23,498,704.05** (\$4,257,865.65+\$5,677,154.20+\$5,677,154.20+\$3,535,450.00+\$4,351,080) is in controversy based on Plaintiffs' allegations.

1 38. Plaintiff also seeks attorney fees. (Ex. 1 [Complaint], Prayer for Relief, ¶¶ 8, 13, 18,
 2 23, 28, 33, 38.) In the Ninth Circuit, 25% of the total recovery is the “benchmark level” for reasonable
 3 attorney fees in class action cases. *Garibay v. Archstone Communities LLC*, 539 F. App’x 763, 764
 4 (9th Cir. 2013). Using this 25% benchmark, courts have included attorney fees for 25% of the total
 5 recovery in determining the amount in controversy under CAFA. *Id.* (contemplating inclusion of
 6 25% of total recovery in attorney fees under CAFA); *Rwomwijhu v. SMX, LLC*, No.
 7 CV1608105ABPJWX, 2017 WL 1243131, at *6 (C.D. Cal. Mar. 3, 2017) (including fees in
 8 calculation, noting that “courts in the Ninth Circuit, including this one, have allowed an estimated
 9 fee award of 25% of a plaintiff’s damages in calculating the amount in controversy under CAFA”);
 10 *Sanchez v. Russell Sigler, Inc.*, No. CV1501350ABPLAX, 2015 WL 12765359, at *7 (C.D. Cal. Apr.
 11 28, 2015) (same). Here, a 25% recovery for attorney’s fees would be **\$5,874,676.01 (25 *
 12 \$23,498,704.05), for a total of \$29,373,380.06.³**

13 7. **Summary**

14 39. Even excluding Plaintiff’s other claims for alleged failure to reimburse business
 15 expenses, minimum wage violations, untimely wages during employment, and recordkeeping
 16 violations, Plaintiffs’ allegations easily satisfy the \$5 million threshold for purposes of removal under
 17 CAFA. Even the most conservative of estimated recoveries for Plaintiff’s additional claims pushes
 18 the amount in controversy even further over the \$5 million threshold.

19 **IV. DEFENDANT HAS SATISFIED THE REMAINING REMOVAL REQUIREMENTS**

20 40. Venue is Proper. Under 28 U.S.C. § 1441(a), this Notice of Removal is filed in the
 21 District Court in which the Action is pending. The Superior Court for the County of Orange County
 22 is within the Central District of California. (28 U.S.C. § 84(d).) Therefore, venue is proper in this
 23 Court because it is the district and division embracing the place where the Action is pending. (28
 24 U.S.C. § 1441(a).)

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³ (\$4,257,865.65+\$5,677,154.20+\$5,677,154.20+\$3,535,450.00+\$4,351,080+\$5,874,676.01)

1 41. Under 28 U.S.C. §1446(a), this Notice of Removal is accompanied by the
 2 Declarations of Nandini Amin and Marlene Moffitt, and Exhibits 1, 2, and 3, which constitute a copy
 3 of all processes, pleadings, and orders provided to JLL.

4 42. As required by 28 U.S.C. §1446(b) and Federal Rule of Civil Procedure 6(a), this
 5 Notice of Removal was filed timely as it was served within 30 days of service of the Complaint,
 6 which is the initial pleading setting forth the claim upon which the action is based. (Moffitt Decl. ¶
 7 3.)

8 43. As required by 28 U.S.C. §1446(d), JLL provided Notice of Removal to Plaintiff
 9 through their attorneys of record.

10 44. As required by 28 U.S.C. §1446(d), a copy of the original Notice of Removal will be
 11 filed with the Superior Court of the State of California, for Orange County.

12 45. If this Court has a question regarding the propriety of this Notice of Removal, JLL
 13 requests it issue an Order to Show Cause so it may have an opportunity to more fully brief the grounds
 14 for this removal.

15 **V. CONCLUSION**

16 For the foregoing reasons, JLL removes the above-entitled action to the United States District
 17 Court for the Northern District of California.

18
 19 DATED: June 8, 2023

OGLETREE, DEAKINS, NASH, SMOAK &
 STEWART, P.C.

20
 21 By: /s/ Spencer C. Skeen

22 Spencer C. Skeen

23 Marlene M. Moffitt

24 Attorneys for Defendant JONES LANG
 LASALLE AMERICAS, INC.

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